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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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4831 WEST LANE, LLC : Case No. G-954  
Local Map Amendment :  
:  
4831 WEST LANE, LLC : Case No. DPA 13-01  
Development Plan Amendment :  
:  
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A hearing in the above-entitled matter was held on  
January 15, 2013, commencing at 9:41 a.m., at the Council  
Office Building, 100 Maryland Avenue, 7th Floor Conference  
Room, Rockville, Maryland 20850 before:

Lynn A. Robeson  
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

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On Behalf of the City Homes of Edgemoor:

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E X H I B I T S

Exhibit No.

Marked/Received

64	City Homes Matrix of Witness Availability	11
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P R O C E E D I N G S

MS. ROBESON: This is a continuation of the public hearing for a local map amendment and development plan amendment filed by 4831 West Lane, LLC, Local Map Amendment No. G-954, Development Plan Amendment No. 13-01. I believe what we were going to do today is schedule, set some scheduling requirements and deadlines for exchanges of exhibits.

I did talk to technical staff this morning; I understand the applicant has a meeting with them at 1 o'clock. They would like one and a half months to review the plan because they want public input. Whether that's going to, I don't know if I necessarily agree with that. I don't think, given the changes and the fact that all the parties are fully aware of the process, I'm not sure I necessarily agree with that. And they also would like to send, because the issue doesn't meet with the Planning Board's guidelines, they would like to schedule it before the Planning Board. I'm more inclined to give that process a month to get it back to the Planning Board, but I don't see the need for two months.

MR. KNOPF: What doesn't meet with guidelines?

MS. ROBESON: I'm sorry?

MR. KNOPF: What doesn't meet with guidelines?

MS. ROBESON: The Planning Board issued a

1 recommended, well, the Planning Board issued, recommended  
2 approval but it was subject to a number of requirements or a  
3 number of recommendations. And, the question is, whether  
4 the revised plan meets the intent of those recommendations  
5 that they would still recommend approval.

6 MR. KNOPF: Oh, I see. Okay. I was thinking some  
7 kind of technical guideline.

8 MS. ROBESON: Oh no, no. There's no mystery  
9 guidelines. So, that is my conversation with the technical  
10 staff. Do you want to comment?

11 MS. HARRIS: Yes. Pat Harris of Lerch, Early and  
12 Brewer on behalf of the applicant. In the course of our  
13 meeting we'll have a further discussion about this. If it  
14 is ultimately determined that it need not go back to the  
15 Planning Board, that may change the scheduled. So, I mean,  
16 unless the hearing examiner feels strongly about that, we  
17 would like the option to explain to them, I don't  
18 necessarily feel that it does need to go back to the  
19 Planning Board.

20 MS. ROBESON: I don't have 59-H in front of me. I  
21 know special exceptions you can either go to technical staff  
22 or the Planning Board. But 59-H --

23 MS. HARRIS: I had thought that the Chelsea  
24 School, the posture of that was similar. That they went  
25 back, they revised, then went back and had technical staff

1 weigh in. But it did not go back to the Planning Board if I  
2 understood that case correctly.

3 MS. ROBESON: No, that was remanded.

4 MS. HARRIS: Right. But prior to the remand,  
5 during the initial hearing there were some changes that were  
6 made that then went back to technical staff for comment.

7 MS. ROBESON: Okay, I should have, I apologize. I  
8 should have brought the ordinance up. Do you want to  
9 comment on this?

10 MR. ABRAMS: Stan Abrams for City Homes. I think  
11 it's basically within the discretion of the examiner the  
12 responsibilities to develop a full record. And, if the  
13 Planning Board feels a necessity to look at it again, then  
14 it should be scheduled for the Planning Board because yes,  
15 the board does have certain responsibilities, particularly  
16 for the development plan amendment, and with reference to  
17 the recommendation that they've made, it probably would be a  
18 lot simpler for the District Council, for yourself, if they  
19 reviewed the new application, well, the changes to the  
20 application, and in that context, I had suggested and I have  
21 a list, actually it's a worksheet of the unavailable dates  
22 for my witnesses.

23 And, I informed Ms. Harris, I think some time ago,  
24 that a lot of my witnesses were not available during the  
25 month of or, I guess it's the first almost three weeks of

1 February. So I'm not sure whether, you know, a remand would  
2 not be in the best interest if we're going to get a series  
3 of dates which are just going to carry through without being  
4 interrupted. I think you should send this back one way or  
5 the other because yeah, there's a significant change which  
6 has been submitted by the applicant, and you should get the  
7 input of staff, and I think in this case, the board.

8 MS. ROBESON: I'm recalling I think what the  
9 ordinance says is that I, well, I can always ask the  
10 Planning Board to review it. I think the statute says that  
11 I have to refer it back to them for an opportunity to  
12 comment. So, what I'd like to do is I'd like to get some  
13 dates going. Yes, Mr. Knopf?

14 MR. KNOPF: Norm Knopf for Edgemoor Condo. I just  
15 don't, first of all, I don't understand what the major  
16 change is that was going back to the Planning Board for all  
17 this re-review. I just think it's a, they do have the right  
18 to look at. The staff has a right to look at it. But I'm  
19 sure we ought to be holding up everything because I just  
20 don't see much happening after the Planning Board reviews.  
21 The hearing examiner may wish to have their views, but I  
22 don't know that we all have to wait in suspension until we  
23 get those views because I'm not sure there's anything really  
24 majorly changed here from what the Planning Board reviewed.  
25 And I think the staff, the technical staff could comment on

1 the obvious of what the changes are and how that compares to  
2 what the Planning Board recommended. I don't see that huge  
3 a deviation.

4 MS. ROBESON: Yeah. I just spoke with technical  
5 staff and they're reluctant to say whether it meets the  
6 Planning Board's recommendations without sending it back to  
7 the Planning Board.

8 MS. HARRIS: If I could, I think one issue  
9 obviously is, they haven't seen it yet so they're sort of  
10 talking in a vacuum until we meet with them and show them,  
11 they may end up with a different opinion. They may concur  
12 with Mr. Knopf in terms of, this is not a major change and  
13 therefore it doesn't merit going back.

14 MS. ROBESON: I think what I, I would like to  
15 schedule some hearings. Did you all have an opportunity on  
16 Friday to go through the plan and how soon will you have a  
17 plan, a correct plan, ready to submit. Well this afternoon  
18 you're going, but I think you had some technical questions  
19 about the property lines.

20 MS. HARRIS: It turns out, and the engineer is not  
21 here to explain this, but it is really a reproduction issue  
22 that when they printed, they sent it to me via PDF, my  
23 computer distorted it very slightly. I sent it downstairs  
24 to the printer, distorted again very slightly. It was a  
25 fairly minor change, but what we did yesterday was send to

1 Mr. Knopf and Mr. Abrams a copy that was produced at the  
2 engineer's office.

3 MS. ROBESON: Okay, so you have a plan ready to  
4 go?

5 MS. HARRIS: Yes.

6 MR. KNOPF: We've been served with it, yes.

7 MR. ABRAMS: Is that the plan that is among the  
8 sheets?

9 MS. HARRIS: No. I sent to you yesterday the  
10 sheets that were bound, and then there was a  
11 miscommunication between me and the engineer's office  
12 because I thought they were going to send directly to you  
13 the development plan.

14 MR. ABRAMS: I didn't receive it.

15 MS. HARRIS: Well it went, you would have received  
16 it by about 5 o'clock because they left my office at about  
17 quarter to five and they were going to stop at your office  
18 first.

19 MR. ABRAMS: All right, I'll check with the  
20 receptionist.

21 MR. KNOPF: We received it.

22 MS. ROBESON: Okay, so there's an exhibit ready to  
23 go. How soon do you think you, do you have for your case-  
24 in-chief, do you have the exhibits ready to provide to the  
25 other parties?



1 MS. HARRIS: Not all of them, and we would need  
2 about approximately two weeks to prepare those.

3 MS. ROBESON: Two weeks?

4 MS. HARRIS: The additional ones, yes.

5 MS. ROBESON: Okay, so.

6 MR. KNOFF: Can I ask a question on that. The  
7 pressing thing as far as I'm concerned is, as I understand,  
8 Mr. Landfair completed his testimony, is that correct?

9 MS. HARRIS: Well, we had indicated on Friday,  
10 however, in re-review of the various issues, I would  
11 actually request that we bring him back up for just a very  
12 brief period of time.

13 MR. KNOFF: Because I just sort of wanted to have  
14 an opportunity to cross-examine him while he was still  
15 somewhat fresh in everybody's mind, but apparently he's not  
16 finished. I thought he was finished and at least we could  
17 get that out of the way. Because I presume he used all of  
18 the exhibits he was going to use and we have those at least,  
19 and the other exhibits will be for other witnesses, I guess.

20 MS. ROBESON: Well, okay, I understand. The  
21 purpose of this is to get everybody on the same page as far  
22 as what the exhibits are. So, if he needs to come back  
23 with, you can, I think we did finish his direct testimony.  
24 If he needs to come back and update his testimony, I don't  
25 have a problem with him doing so, and then you will,

1 hopefully, when he comes back you will have all the exhibits  
2 in hand to be able to cross-examine him and have had the  
3 opportunity to review them. So, what I'd like to do is set  
4 time frames for the exchange of exhibits, which is something  
5 we can do right now. So, when do you think is a realistic,  
6 because I'm going to be really reluctant to change these  
7 dates for exchange of exhibits.

8 MR. ABRAMS: I have prepared a matrix of dates.  
9 These are the unavailable dates for my witnesses.  
10 Individuals who are unavailable for certain dates, and I'd  
11 like to just hand this up. I've given copies to both  
12 counsel and it may at least facilitate.

13 MS. ROBESON: I'm going to enter it out of an  
14 abundance of caution; I'm going to enter it as an exhibit in  
15 the record unless anyone has an objection.

16 MR. ABRAMS: Pat, did you do the same thing?

17 MS. HARRIS: I took your, I hand wrote my dates on  
18 the bottom of your sheet for what that's worth.

19 MS. ROBESON: Thank you. When is the ball park  
20 date, okay, so February is pretty much out?

21 MR. ABRAMS: Yes, ma'am.

22 MS. ROBESON: Okay. Let's see where we are on  
23 having sufficient time to exchange the exhibits first and  
24 then we'll go through. I'm going to mark this as Exhibit 64  
25 which is matrix of City Homes --

1 MR. ABRAMS: Unavailable dates.

2 MS. ROBESON: Yes. Thank you, that's very  
3 helpful.

4 MR. KNOPF: I also have a matrix but I only made  
5 it for my use.

6 MS. ROBESON: That's fine as long as you can tell  
7 me which dates.

8 MR. KNOPF: Absolutely. I only went through  
9 March. It sound to me like we may --

10 MS. ROBESON: No. We're going to get this done.  
11 What I've found is the exhibit exchange, and you may  
12 disagree with me at the end of the day, but it does make  
13 things move more quickly. Okay, that's 64.

14 (Exhibit 64 was marked for  
15 identification.)

16 MS. ROBESON: Now, let me go through the exhibit  
17 exchange. What's a realistic timeframe for you to exchange  
18 exhibits with, or to provide exhibits to Mr. Knopf and Mr.  
19 Abrams?

20 MS. HARRIS: Well, I just indicated two weeks.  
21 But following on the heels of your comment that you're going  
22 to be reluctant to change dates, I think an extra week just  
23 to be safe. So I would say February the 5th.

24 MR. ABRAMS: Fifth?

25 MR. KNOPF: Fifth?

1 MS. HARRIS: If that's acceptable.

2 MS. ROBESON: Okay.

3 MS. HARRIS: And just to be clear, is that, does  
4 the hearing examiner intend for every exhibit to be  
5 presented to be provided at that point in time?

6 MS. ROBESON: Yes. But what we did earlier is,  
7 you provide the exhibits for your case-in-chief. They're  
8 going to have an opportunity and we'll talk about time  
9 frames, that they need to give you your exhibits, I mean  
10 their exhibits, and then you're going to have an opportunity  
11 to provide rebuttal exhibits all in advance of the hearing.

12 MS. HARRIS: Okay.

13 MS. ROBESON: So, the applicant to provide  
14 exhibits for case-in-chief is February 5th. Now, my  
15 question, I know this is a tough question because you  
16 haven't seen the exhibits, but do you have a timeframe for  
17 when you think you could prepare exhibits in response. I  
18 know you have one expert witness, Mr. Doggett.

19 MR. KNOPF: Well the part that's going through my  
20 mind is, I have no problem putting in exhibits but, I think  
21 we need a little wiggle room because until we hear the oral  
22 testimony that may bring to mind we need something else.

23 MS. HARRIS: Well, I mean, typically, first of  
24 all, most of these cases usually last one day and you don't  
25 necessarily have the benefit of a pause to go back and

1 think, oh, I need three weeks to prepare another exhibit.

2 MS. ROBESON: Well, they don't mostly last one day  
3 when you have this much opposition. We've had cases that  
4 last five days.

5 MS. HARRIS: I'm aware of that.

6 MR. KNOPF: I mean, basically what I'm think of is  
7 at this point what we'd be doing is a lot of photographs,  
8 and I'm not sure, some things happened after Landfair  
9 testified that didn't even occur to me we need a photograph  
10 on it, now I think we do. So, I mean, that's what I, you  
11 know.

12 MS. ROBESON: Well, you've heard the basics of  
13 what Mr. Landfair is, testified to. So, I'm not willing to,  
14 I would like to give you a reasonable time to submit  
15 exhibits. What's a reasonable time?

16 MR. ABRAMS: Since most of my people are going to  
17 be out for a good part of February, --

18 MS. ROBESON: Yeah, I saw that.

19 MR. ABRAMS: Could we have at least four weeks?

20 MS. ROBESON: Well, that would accommodate  
21 technical staff's schedule.

22 MR. KNOPF: He asked if I needed more than four  
23 weeks. No, I don't need more than four weeks. I was  
24 thinking more like two weeks.

25 MS. ROBESON: Do you have an expert witness?

1 MR. ABRAMS: No.

2 MS. ROBESON: Okay.

3 MR. ABRAMS: I have a letter report which has  
4 already been submitted from an expert witness.

5 MS. ROBESON: Right.

6 MR. ABRAMS: But that expert witness will not  
7 testify.

8 MS. ROBESON: Okay. Well, what I'll do --

9 MR. KNOPF: And I don't anticipate having a  
10 written report from our expert.

11 MS. ROBESON: I'm sorry?

12 MR. KNOPF: I don't anticipate having a written  
13 report from our expert.

14 MS. ROBESON: Yeah, but I assume, knowing Mr.  
15 Doggett, there may be some other exhibits.

16 MR. KNOPF: Oh yes, surely. And you had said, one  
17 of the things we will be referring to, and you said it's  
18 enough to just list them, if we list the prior council  
19 decisions or hearing examiner decisions rather than putting  
20 in all of the huge decisions.

21 MS. ROBESON: That will be helpful, yes.

22 MR. KNOPF: We can just list them.

23 MS. ROBESON: Yes, I'm fine with that. Okay. So,  
24 Mr. Abrams, you don't have expert exhibits. How about we  
25 say two weeks, how about February 22nd?

1 MS. HARRIS: And that date is for what?

2 MS. ROBESON: Their exhibits to you.

3 MR. ABRAMS: Well, my primary witness, which is  
4 Mr. Walsh, apparently is going to be out until the 28th.

5 MS. ROBESON: Is he out now?

6 MR. ABRAMS: No.

7 MS. ROBESON: Oh, but you haven't seen the --

8 MR. ABRAMS: I haven't seen what she's going to  
9 submit.

10 MS. ROBESON: Right, right. I thought he's going  
11 to be out until, oh, wait.

12 MR. ABRAMS: You've got a second page there.

13 MS. ROBESON: I see that.

14 MS. HARRIS: I'm a little concerned about the non-  
15 expert witnesses driving totally the hearing schedule and  
16 hopefully we can be a little accommodating in terms of who  
17 may be able to testify in place of someone else, if someone  
18 else looks like, you know, a number of these people look  
19 like they're going to be out for two weeks time.

20 MR. ABRAMS: No, basically, we're concerned with  
21 that is, when you submit your exhibits by the 5th of  
22 February, the chief witness that I have who has input and  
23 will testify is out until the 28th, continuously.

24 MS. HARRIS: And, who is that?

25 MR. ABRAMS: Walsh.

1 MS. ROBESON: You don't have a way to contact him?

2 MR. ABRAMS: He's going to be, I think, out of the  
3 country. And I have no way, well.

4 MS. HARRIS: And he can't receive a PDF on his  
5 Ipad?

6 MR. ABRAMS: I don't know. I don't know. I just  
7 asked him for a list of dates.

8 MS. ROBESON: Well, what I'm going to do, that is  
9 a long time to have a witness unavailable.

10 MR. ABRAMS: Could we have until the 25th, which  
11 is, let me see, that's, yeah, the 25th?

12 MS. HARRIS: I mean, I understand, but a number of  
13 these are exhibits that in the normal course of any hearing  
14 are presented and people respond, you know, whether it be a  
15 detailed elevation or something like that. So the rules  
16 don't call for presentation in advance of any supporting  
17 exhibits.

18 MS. ROBESON: Yeah, but my rules do. So, I think  
19 what we're going to do, I understand what you're saying. I  
20 don't want to, its unusual for a non-expert, you know, I  
21 know he's where ever he is, there's got to be a way in this  
22 day and age to convey to him the information. So, I'm going  
23 to keep it at February 22nd, and Ms. Harris, can you submit  
24 a PDF or can you submit, when you give your exhibits to  
25 them, can you give them an electronic version?



1 MS. HARRIS: As well as a hard copy, correct, or  
2 just electronic?

3 MS. ROBESON: Yes.

4 MS. HARRIS: Yes.

5 MS. ROBESON: That's February 22nd that your  
6 response exhibits are due. Now, rebuttal exhibits. Yes?

7 MR. KNOPF: Is the electronic version only  
8 electronic or will it be hard copy?

9 MS. ROBESON: No, both. Hard copy and electronic,  
10 so you can communicate it easily to your clients.

11 MR. KNOPF: Thank you.

12 MS. ROBESON: Okay. And, rebuttal exhibits. You  
13 have a suggestion? February 22nd. What about March 5th?  
14 Because what I'd like to try to do is get into hearings in  
15 March. So, you know, your exhibit, I mean, your witness was  
16 out until February 28th. We can get going in March.

17 MS. HARRIS: I think it'll be helpful to know that  
18 I am tied up with the other ZHA on another case March 11,  
19 15th, 18th and 22nd.

20 MS. ROBESON: Oh, Costco?

21 MS. HARRIS: Yes.

22 MS. ROBESON: Well then, what's your suggestion?

23 MS. HARRIS: Ideally, I mean, ideally, I'd like to  
24 do it before or it's going to have to be after. It can't be  
25 during.

1 MS. ROBESON: Well, we have Monday the 4th. We  
2 have March 1st. Or if you want to, I mean, we could shorten  
3 your time for rebuttal exhibits. If you want to submit  
4 rebuttal exhibits on March 1st. We could start --

5 MS. HARRIS: Okay, if we can take a step back for  
6 a moment. The 5th to the 22nd is two and a half weeks. And  
7 is that time, is it felt that that time necessary for Mr.  
8 Abrams and Mr. Knopf in an effort to try to reduce the  
9 schedule?

10 MR. KNOPF: The time necessary for what?

11 MS. HARRIS: For your exhibits to be provided to  
12 me.

13 MR. ABRAMS: Yeah, we got to see what you give.

14 MS. ROBESON: She's saying your time from the 5th  
15 to the 22nd to respond. Mr. Knopf, you have an expert,  
16 what's your?

17 MR. KNOPF: I'm sorry. I'm a little lost with  
18 what we're shortening.

19 MS. ROBESON: Okay. Right now we have her  
20 exhibits, the applicants' exhibits to you on February 5th.

21 MR. KNOPF: Oh, that 5th. I'm sorry. I got mixed  
22 up with the March 5th.

23 MS. ROBESON: I understand. I understand. What's  
24 your position on, what is your time frame to respond to the  
25 applicant's exhibits, to submit your response exhibits?

1 MR. KNOPF: Two weeks maximum.

2 MS. ROBESON: So that would be the 19th.

3 MR. KNOPF: Let's see, the 19th is a --

4 MS. ROBESON: February 5th is when she gets the  
5 exhibits to you.

6 MS. HARRIS: And I can shorten ours a little bit.

7 MS. ROBESON: How about this. How about  
8 shortening the February 5th.

9 MS. HARRISON: That's what we were just  
10 discussing. So how about, well, it could be the 1st or the  
11 4th. Friday or Monday.

12 MS. ROBESON: Let's go with the 1st.

13 MS. HARRIS: Okay.

14 MS. ROBESON: February 1st and then we can do  
15 February 19th, well, 18th?

16 MR. KNOPF: 18th is a holiday, I believe.

17 MS. ROBESON: It is.

18 MS. HARRIS: I mean, why not, again, the 15th?  
19 Yeah, that's two weeks.

20 MR. KNOPF: 15th is fine with me.

21 MS. ROBESON: Okay, I'm going to go with the 15th.  
22 So let's do that. And then --

23 MS. HARRIS: And the 22nd, one week later for any  
24 rebuttal exhibits?

25 MS. ROBESON: That's your call.

1 MS. HARRIS: That's fine.

2 MS. ROBESON: And, you'll send CD's of any  
3 rebuttal exhibits too.

4 MS. HARRIS: And, I would hope that similarly,  
5 hard copies and electronic copies can be provided to us as  
6 well from Mr. Knopf and Brown.

7 MS. ROBESON: Well, do you have that capability  
8 with your expert? The reason I'm asking you to submit the  
9 hard copies, I mean, the electronic versions is Mr. Abrams  
10 client being out of the country.

11 MS. HARRIS: Okay, well then --

12 MS. ROBESON: I don't know if Mr. Doggett has the  
13 ability, since you're going to have people here I'm not  
14 going to require him to --

15 MS. HARRIS: Okay, then the only thing I would  
16 request is hand deliveries though, because we had a  
17 situation in the past where things were put in the mail as  
18 opposed to hand delivered and three days after whatever date  
19 is provided.

20 MS. ROBESON: Okay. Do you have a problem with  
21 that?

22 MR. KNOPF: No.

23 MS. ROBESON: So, February 26 will be the rebuttal  
24 exhibits, and then we could do a hearing, I mean, I'm not  
25 helping, February 22nd is the rebuttal exhibits. Then, we

1 could do a hearing March 4th.

2 MS. HARRIS: Okay.

3 MR. ABRAMS: That's fine.

4 MR. KNOPF: This is the applicant's case would be  
5 on March 4th.

6 MS. ROBESON: Right.

7 MR. KNOPF: So we don't have to worry about my  
8 availability. He was mentioning some people unavailable on  
9 our side, but that doesn't matter because it's the  
10 applicant's case.

11 MS. ROBESON: Yeah, I think we have another day on  
12 the applicant's case since we only go through a portion of -  
13 - so anyway. Now, that's not a guarantee, but, you know, I  
14 do think we have an extra day. I don't want to be limited  
15 by that, but since you both are so, such good advocates, I'm  
16 guessing that the 4th is going to be the balance of the  
17 applicants' case.

18 MR. KNOPF: I'm thinking that they may need  
19 another day. Because they've got five more witnesses or  
20 something.

21 MS. ROBESON: Well, let's do this. Let's just  
22 schedule hearings and we will work from there. One thing I  
23 did ask the opposition attorneys to do in Chelsea is, if you  
24 could make available exhibits for the community. Well, I  
25 don't know. Never mind. Strike that.

1           MR. ABRAMS: That's probably part of my question.  
2 The exchange of exhibits, what do we submit to you in terms  
3 of keeping track of what's been exchanged. Do you want  
4 copies of the exhibits?

5           MS. ROBESON: I guess what we should have is  
6 copies in the file, and if you want to submit the hard  
7 copies and the electronic versions, then people can come to  
8 our office and look at the exhibits. So that's the best  
9 thing to do. And we'll put them in the record subject to  
10 objections at the hearing. You know, we'll include them in  
11 the official file subject to objections at the hearing.

12           MR. ABRAMS: And would you accord exhibit numbers  
13 at that time?

14           MS. ROBESON: Yes. And then you would use the  
15 exhibits on file with us at the hearing.

16           MS. HARRIS: Correct. Okay.

17           MS. ROBESON: So we don't have to do duplicates.  
18 Okay, so we have one hearing on March 4th. Tuesday is the  
19 council, so I don't know if you all are going to want to do  
20 the 5th.

21           MS. HARRIS: I would suggest yes.

22           MR. ROBESON: Okay.

23           MR. KNOPF: If something should come up, which is  
24 unlikely, one could defer for the half hour when everyone  
25 went to the council.

1 MS. ROBESON: Okay, we'll go with the 5th. Now, I  
2 don't have, I can't do the 6th because I don't have either  
3 this room or the hearing examiner's room. So, I can see on  
4 the 6th if we have, there's a hearing room on the second  
5 floor, but it's not big. I could do the 14th, if you don't  
6 have the Planning Board.

7 MS. HARRIS: My concern is, again, I mean, that  
8 other case is going to make this one look like a walk in the  
9 park. And so --

10 MS. ROBESON: Well, that's comforting. Well, give  
11 me a follow up date.

12 MS. HARRIS: How many does do opponents, I mean,  
13 how many days are we totally targeting? Because I indicated  
14 previously I thought the completion of our case will take a  
15 day, a day in a half, max. I would assume.

16 MR. KNOPF: In addition to what's already been  
17 done or counting the day already?

18 MS. HARRIS: Additional.

19 MR. KNOPF: Addition.

20 MS. HARRIS: An additional day, day and a half.

21 MR. KNOPF: That's counting cross-examination?

22 MS. HARRIS: That's a little bit out of my  
23 control.

24 MR. KNOPF: I mean, I'm working on the assumption  
25 the next two hearing days will be their case. I think

1 that's a reasonable.

2 MS. ROBESON: How about your case?

3 MR. KNOPF: I think three hours, not counting  
4 cross-examination.

5 MS. ROBESON: Your case?

6 MR. ABRAMS: Probably a day, maybe a little over a  
7 day.

8 MR. KNOPF: Well, wait a minute. I say three  
9 hours for my witnesses, but there then can be community  
10 people that are going to show up.

11 MR. ABRAMS: Well, yeah, I'm including cross-  
12 examination but, I don't know. I suggest we schedule four  
13 days.

14 MS. ROBESON: Four days?

15 MR. ABRAMS: Yes.

16 MS. ROBESON: All right. And if we need more, we  
17 schedule more.

18 MS. HARRIS: You mean four days total for all of  
19 us, or four days for your case?

20 MR. ABRAMS: No, not for my case.

21 MS. HARRIS: Oh, I was like, really.

22 MR. ABRAMS: Four days total.

23 MS. HARRIS: Okay, thank you.

24 MS. ROBESON: Let's do this. Let's do four days  
25 so we at least have the dates reserved. If, for some



1 reason, we need more, you know, we can work from then. My  
2 experience is the exhibit exchange cuts down on cross-  
3 examination, which is why I'm doing it.

4 MS. HARRIS: Okay, so March 6, did you indicate  
5 that was available?

6 MS. ROBESON: No, because I don't have a hearing  
7 room. I don't have a hearing room the rest of that week.

8 MR. ABRAMS: When do you start in March, Pat?

9 MS. HARRIS: Eleventh.

10 MS. ROBESON: Actually, I may be able to get this  
11 room on the 7th. Wait a minute. Okay. I have Wednesdays  
12 and Fridays only in this room. And we have hearings  
13 scheduled in the other room.

14 MS. HARRIS: So Wednesday, March 6 would work in  
15 this room?

16 MS. ROBESON: Yes.

17 MR. KNOPF: Well, I have a problem with that.

18 MR. ABRAMS: Yeah, I have a problem also with the  
19 6th. One of my witnesses, and I think by that time I'm  
20 getting into our case.

21 MS. HARRIS: Yeah, but that's just one.

22 MR. KNOPF: I have all three of my witnesses are  
23 not available. The expert's available, the all three are  
24 not available. The other people. And I would like, well,  
25 what I'm aiming for here is to have the people, the general,

1 the residents show up and so on, take the day off from work  
2 or whatever and then come. I think it might be good if we  
3 could have some kind of break after they finish, just a day  
4 or whatever, so we know they're done. Maybe we could have  
5 the 6th as an overflow, if necessary, and then can we do the  
6 7th to start up again.

7 MS. ROBESON: I don't have a room on the 7th.  
8 And, you know, we've got to get this done. The only room I  
9 have is on the 6th. That's the only place. Wait a minute.  
10 Okay, the only place, okay, I could get a room. I've got my  
11 own matrix going up here.

12 MS. HARRIS: I have a suggestion. Could we scoot  
13 the first hearing date to March 1st or the 28th? How about  
14 the 27th?

15 MR. ABRAMS: No, my primary client is Mr. Walsh,  
16 who's the --

17 MS. ROBESON: Yeah, I'm not going to do that. I'm  
18 going to wait for him to -- yeah, I have the 8th. I think I  
19 can get this room on the 8th.

20 MR. ABRAMS: That's a Thursday.

21 MS. HARRIS: No, I can't do that. I'm  
22 jeopardizing that other case I believe.

23 MS. ROBESON: Well, do you want to finish in one  
24 week? When do you want to finish? I mean, I know Costco is  
25 heavily opposed. It is my experience that the hearing goes

1 much more quickly, you know, with the exhibit exchange  
2 because cross-examination is reduced. We do have people  
3 that are going to testify but, you know, really, from the  
4 community but.

5 MR. ABRAMS: Is there opposition counsel in that  
6 case?

7 MS. ROBESON: Costco? I think there is. I think  
8 there's multiple opposition counsel.

9 MR. ABRAMS: I was going to say if there's no  
10 cross-examination by counsel.

11 MS. HARRIS: You mean in the other case?

12 MR. ABRAMS: Yeah.

13 MR. KNOFF: You should be so lucky. Did you lose  
14 the toss of the coin on that one?

15 MS. ROBESON: Well, the other option is to move it  
16 up. You've got February 1st for your initial submission.  
17 Can you do it faster?

18 MS. HARRIS: The architects told me yesterday they  
19 needed two weeks, which takes us to, let me go back, to the  
20 29th. And I was just giving us a little bit of room just  
21 because you don't want to --

22 MS. ROBESON: I don't want to mess with the  
23 schedule.

24 MS. HARRIS: Can we make a phone call to just to  
25 confirm. Take a two-minute break?

1 MS. ROBESON: Let's take a two-minute break.

2 (Whereupon, a brief recess was taken.)

3 MS. ROBESON: Okay. Do we have any news from the  
4 applicant?

5 MS. HARRIS: Yes. My original inclination  
6 regarding the exhibits was unfortunately correct. And that  
7 is, we are going to need three weeks to make sure that we  
8 have the correct exhibits. So, I have a different  
9 suggestion, which is, that we look at the beginning of April  
10 and we start scheduling the hearing dates in April. I mean,  
11 we can figure out the exchange of exhibits prior to that in  
12 March, but we scratch all these hearing dates that we were  
13 talking about. I think it's helpful to Mr. Abrams client  
14 regarding their February and March vacations or whatever  
15 they're doing, and we focus on April. Or the last week in  
16 March.

17 MR. KNOPF: Well, the last week in March is a  
18 problem. Passover starts Monday night, and I think I may be  
19 out of town and others may be out of town that week.

20 MS. ROBESON: Well then, first week of April. If  
21 we're going to April and then we'll schedule.

22 MR. ABRAMS: So the exchange of exhibits is off in  
23 terms of those dates?

24 MS. HARRIS: Well, what I'm suggesting is maybe we  
25 sought of conceptually agree on hearing dates and then we

1 can go back and figure out the exchange.

2 MS. ROBESON: Back out the other dates. All  
3 right, April. April is good from our calendar. You know, I  
4 know that we have a lot of people that want to testify, but  
5 I can't get this room because it's budget, I have  
6 Wednesday's and Friday's, maybe, so I'm going to schedule  
7 for downstairs and hopefully that'll be enough to  
8 accommodate everyone.

9 MR. KNOPF: The only problem with April is that I  
10 didn't go that far with my calendar. So we could do it,  
11 hopefully it'll be all right, because apparently people are  
12 all taking their vacations in February and March.

13 MS. ROBESON: Yeah. Where did I go wrong?

14 MS. HARRIS: I know.

15 MS. ROBESON: And I'm a skier.

16 MS. HARRIS: Well now maybe we've helped you out  
17 as well.

18 MR. ABRAMS: In terms of April, my grandson is  
19 getting operated on on the 24th, which is a Wednesday, so I  
20 will not be here for that. There is a CLE, State Bar,  
21 urban, or land use institute which is scheduled for the  
22 26th, which is a Friday, so my bad days are the 24 and 26th.

23 MS. HARRIS: Well, I would hope that we can, given  
24 that we're pushed out this far now, hopefully we can focus  
25 on the first half of April.

1           MR. ABRAMS: Well, that's fine. I just wanted you  
2 to know in April those are my dates.

3           MS. ROBESON: Let me do this then. Let's set some  
4 tentative dates. You guys check back with your powers that  
5 be. My main concern is the expert witnesses' availability.  
6 So, I have a lot of days open. When does Passover end?

7           MR. KNOPF: It's that week. It starts Monday, the  
8 25th.

9           MS. ROBESON: Of March.

10          MR. KNOPF: Of March.

11          MS. ROBESON: So it ends April 1st.

12          MR. KNOPF: Well, we need to be back, yeah.

13          MS. ROBESON: I mean, you'll be back April 1st.  
14 So the only hearing date that I do not have is the 4th, the  
15 11th and the 25th. We already have hearings scheduled on  
16 those days. And I can't this room on Thursday. But the  
17 rest of the calendar is open. And I'm going to take  
18 whatever room I can get.

19          MS. HARRIS: So any date besides 4, 11, 25 and  
20 then Mr. Abrams, which day did you say?

21          MS. ROBESON: The 24th and the 26th.

22          MS. HARRIS: And how many days do we think we need  
23 to come up with?

24          MR. KNOPF: Well, have we used, we haven't had any  
25 hearings yet? No hearings in March?

1 MS. HARRIS: Correct.

2 MR. KNOPF: Because I got lost. Whatever happened  
3 to the week of the 18th?

4 MS. ROBESON: That is Costco.

5 MR. ABRAMS: Why don't you pick four dates. The  
6 first four dates you have a hearing room available in April.

7 MS. ROBESON: Okay.

8 MR. ABRAMS: Is that all right, Pat or do you need  
9 more time for Costco?

10 MS. HARRIS: I'm sure I will, but then they'll  
11 have to juggle their schedule.

12 MS. ROBESON: So, do you need a date to have  
13 people come back from wherever they are on Passover or?

14 MR. KNOPF: Well, I won't, presumably we're  
15 starting with their case on, isn't the first hearing date in  
16 April and that'll be their case still, so I don't need to  
17 worry about my people's availability.

18 MS. ROBESON: Well, that's up to you. I'm not  
19 delaying.

20 MR. KNOPF: I'm sorry. I have to confirm, my  
21 expert is the only one that I want to make sure is here to  
22 hear their case.

23 MS. ROBESON: Well, what I'm going to do, let's  
24 set some tentative dates and you go back and confirm them,  
25 and we'll go from there. So, April 1st, I can do April 1st,

1 2nd, 3rd and 5th. Now, the 2nd is the County Council, so  
2 you know, you have to pay your money and take your chances  
3 if you have anything at the County Council.

4 MS. HARRIS: Can we identify dates the next week  
5 as well just in case those drop out.

6 MS. ROBESON: Sure.

7 MR. KNOPF: That was the 1st, 2nd and what was the  
8 other one?

9 MS. HARRIS: Third and 5th.

10 MS. ROBESON: April 1st, 2nd, 3rd, and 5th.

11 MR. KNOPF: Presumably, is it fair to say we're  
12 assuming that at least a day and a half of the first two  
13 hearing days would be their case?

14 MS. ROBESON: Yes. Well, that's what Ms. Harris  
15 said.

16 MS. HARRIS: At least the first day.

17 MR. KNOPF: How many expert witnesses do you have?  
18 You have about four or five other experts, right?

19 MS. HARRIS: Four, yes.

20 MR. KNOPF: Four in day.

21 MS. HARRIS: I mean, I just, it's hard to predict.  
22 I don't want to be, it's at least a day.

23 MR. KNOPF: Yeah, I'm worried about the cross-  
24 examination. I think it's realistic to say at least a day.

25 MS. HARRIS: Okay. And then the next week?



1 MS. ROBESON: I have everything but Thursday, the  
2 11th.

3 MS. HARRIS: So, 8, 9 10, and 12. So perhaps what  
4 we should do is all of us should take a look at this, e-mail  
5 you all dates that we're available and then you'll --

6 MS. ROBESON: Set a hearing date.

7 MS. HARRIS: You'll select a date?

8 MS. ROBESON: I'll set five.

9 MR. KNOPF: Just as an abundance of caution, maybe  
10 you should go to the third week. Just in case.

11 MS. ROBESON: I'm totally open the third week.

12 MR. KNOPF: Oh, okay. I just wanted to know, so  
13 we don't have to go back again if it turns out.

14 MR. ABRAMS: So we have the 1st of April, the 2nd  
15 of April, the 3rd of April and the 10th of April?

16 MS. ROBESON: No. First, 2nd, 3rd, 5th.

17 MR. ABRAMS: Fifth.

18 MS. ROBESON: Eight, 9, 10, 12.

19 MR. KNOPF: Then the next week it's fully  
20 available.

21 MS. ROBESON: Yes. So, using that time frame,  
22 huh?

23 MR. KNOPF: We should be able to get some days out  
24 of that.

25 MS. ROBESON: Yeah, I have another case coming up

1 that is also controversial. So I'm just going to at the  
2 moment reserve every one of those dates, but I need you guys  
3 to get back to me because it's hard for us to hold that many  
4 dates. So, when do you think you can get back to me?

5 MS. HARRIS: By close of business tomorrow,  
6 certainly. Maybe close of business today.

7 MS. ROBESON: Okay.

8 MR. KNOPF: I'll try today, but tomorrow.

9 MR. ABRAMS: We'll try close of business tomorrow.

10 MS. ROBESON: Okay. Now assuming that the first  
11 date is April 1st, except I need a date to continue this  
12 today, or I have to --

13 MR. ABRAMS: Well, that's up to Pat because they,  
14 you're going to presenting your case. So we have no problem  
15 with April 1st.

16 MS. ROBESON: Let's do the exhibits and then if  
17 you need time to check with your witnesses and pick the  
18 first date, I just need the first date or we have to  
19 readvertise and all that stuff.

20 MS. HARRIS: I mean, I'm confident, because I did  
21 ask my folks through April. Why don't we say, because you  
22 need to continue at least one date now, right, April 2nd.

23 MS. ROBESON: April 2nd. All right.

24 MR. KNOPF: I can't.

25 MR. ABRAMS: We've already got a date, April 2nd.

1 MS. ROBESON: Well wait, this is her case, so  
2 we're going with April 2nd, which is a Tuesday --

3 MS. HARRIS: Okay, then we can make it April 1.

4 MR. KNOPF: I'm sorry, what? April 1?

5 MS. HARRIS: April 1.

6 MR. KNOPF: Yeah, that's fine. I was going to  
7 suggest that if, you need a date to set this, to continue  
8 it, right.

9 MS. ROBESON: Today. I just need one.

10 MR. KNOPF: If for some reason, and I'm not saying  
11 it's going to happen, it turns out that witnesses aren't, my  
12 expert's not available or something isn't available, maybe  
13 you could turn one into we could review the exhibits that  
14 have been filed and object or not object so you'd have a  
15 continuation there, just as a worst come scenario.

16 MS. ROBESON: No. We're just going to, yeah, this  
17 is her case, so we are going to do April -- yeah?

18 MR. KNOPF: Well, the only thing is, I need my  
19 expert to be present when they make their presentation, and  
20 I don't know whether he's available on April 1. I could --

21 MS. ROBESON: Can you e-mail him?

22 MR. KNOPF: I can find out now if you'd give me --

23 MS. ROBESON: Why don't you take a moment and do  
24 that.

25 MR. KNOPF: Yeah, I mean, I just didn't ask him in

1 April, I'm sorry.

2 MS. HARRIS: Should we figure out the exhibit  
3 schedule and then we'll take a pause and he'll confirm the  
4 1st or 2nd?

5 MS. ROBESON: Yes. So when do you --

6 MS. HARRIS: I mean, we could take the same timing  
7 and back up from the 1st or we could go the other direction.

8 MS. ROBESON: It's your --

9 MS. HARRIS: My call, okay.

10 MS. ROBESON: Because now we've got lots of time.

11 MS. HARRIS: Okay, right. So now we're going to  
12 be more conservative and we'll just say that a month from  
13 today --

14 MS. ROBESON: Oh wait, I wasn't thinking a month.

15 MS. HARRIS: Because we had three weeks before.

16 No?

17 MS. ROBESON: But I want, okay. We originally had  
18 February 1st.

19 MS. HARRIS: That's when we reduced it, but then I  
20 checked my --

21 MS. ROBESON: I know. I'm not backing out. I  
22 want to start the exhibit exchange as early as possible  
23 without crowding you. So, you had February 1st. Is  
24 February 8th enough leeway for you?

25 MS. HARRIS: Let me get back to my calendar. Yes.

1 MS. ROBESON: So your exhibits will be due to the  
2 opposition on February 8th.

3 MS. HARRIS: I mean, can we take a full four weeks  
4 just because now that we now have a month and a half more.

5 MS. ROBESON: Well, I'm going to give them more  
6 time to respond to your exhibits. Okay, let's work it out.  
7 2/15/12, but I want the opposition to have significantly  
8 more time to respond. I was cutting them short.'

9 MS. HARRIS: Okay.

10 MS. ROBESON: 2/15. So what if we say the  
11 opposition exhibits March 8th, and then your rebuttal  
12 exhibits March 22nd.

13 MS. HARRIS: I think that --

14 MS. ROBESON: Yes.

15 MS. HARRIS: So our first date for submitting is,  
16 and you had said 2/15/12. 2/15/13, correct?

17 MS. ROBESON: Yes.

18 MS. HARRIS: Okay. Then they respond 3/8 and we  
19 respond 3/22. We will send hard and electronic copies. They  
20 will hand deliver by COB on their date.

21 MS. ROBESON: And then copies to us.

22 MS. HARRIS: Yes.

23 MS. ROBESON: And ours will be marked. Now that  
24 may give you time, I don't know what technical staff is  
25 going to say on your revised plans but, you know, that'll

1 give you time to --

2 MS. HARRIS: Exactly. Which is one of the reasons  
3 when we made the call to the architect, we thought it would  
4 make sense just to back out to wait.

5 MS. ROBESON: Let's just go off the record while  
6 he's making his call and we'll come back on.

7 (Whereupon, a brief recess was taken.)

8 MR. KNOPF: I was not able to reach him; I got  
9 voicemails and phone numbers.

10 MS. ROBESON: All right, well what I' going to do  
11 is this. I was trying to avoid just convening a hearing to  
12 reschedule a hearing but, if worse comes to worse I'll  
13 convene it. Let's go with April 2nd. I'm sorry. April 1st  
14 is the first hearing at 9:30. And if necessary, you know,  
15 that hearing will just be to convene, to adjourn to the next  
16 date. So, what we have now, February 15, 2013 applicants  
17 exhibits to opposition. March 8, '13, opposition exhibits  
18 to applicant, March 22, '13, applicants' rebuttal exhibits  
19 to opposition. The applicant will provide electronic  
20 versions of their exhibits to Mr. Abrams and Knopf, and hard  
21 copies of all the exhibits are to be filed in our office.  
22 What I'm going to do -- off the record.

23 (Discussion off the record.)

24 MR. KNOPF: He believes --

25 MS. ROBESON: Who is he?

1           MR. KNOPF: Ken Doggett, the expert, is in London  
2 for the, he believes through the 7th, but his wife has the  
3 tickets and his wife isn't home. So I'm just telling you he  
4 thought that that's when they were scheduled to go from the  
5 end of March to, he'll be back on the 7th of April. But  
6 he's not sure. He might be back, he thought he could be  
7 back on the fourth, but he just doesn't know and he doesn't  
8 have the tickets. He never thought, I never told him to  
9 look in April, I'm sorry. It's my fault.

10           MS. ROBESON: No, it's not. We didn't tell you to  
11 look that far. April 8th and then we just go 8th, 9th,  
12 10th, 12th, as long as it takes.

13           MR. KNOPF: Okay.

14           MS. ROBESON: So I'm going to reserve, I'm going  
15 to continue this case to April 8th and 9th, and then I'm  
16 going to reserve the 9th, 10, 12th, 15th.

17           MR. ABRAMS: So, the 1st, 2nd, 3rd and 5th are  
18 out?

19           MS. ROBESON: Yes. Now, if you could get me your  
20 availabilities for all the dates, but whatever happens,  
21 we're going to continue this to 4/8 at 9:30. I do, go  
22 ahead.

23           MS. HARRIS: Just to be clear. The next hearing  
24 date's the 8th then we, as we discussed previously, will  
25 confer with all of our witnesses, experts for these other

1 dates and provide you every date that works?

2 MS. ROBESON: Right. And I'm going to just  
3 reserve the 8th, 9th, 10th, 12th and the entire following  
4 week.

5 MR. KNOPF: Oh, and the entire, 15th, 16th?

6 MS. ROBESON: Yes, because I don't want anymore  
7 delays. So I'm going to put a hold on it in your calendar.  
8 If you could, get back to me by close of business tomorrow.

9 MS. HARRIS: Perfect, okay.

10 MR. KNOPF: That's fine. And one of those days we  
11 should be able to have.

12 MS. ROBESON: Right. And I don't know, I'm going  
13 to announce it for the second floor hearing room but, if we  
14 need to change it they'll be a sign on there just for the  
15 record. And also, I am going to, I decided that I would do  
16 a site visit for the property. I have to announce it on the  
17 record, the time and the date. I cannot speak with anyone  
18 when I go out but, I am going to get out there Wednesday,  
19 February 6th at 2:00 p.m. So, that's when I'll be going out  
20 there.

21 MS. HARRIS: I wanted to make two comments  
22 regarding that. I think it's important to note that there a  
23 number of approved but not yet built projects that weigh  
24 into the compatibility issue that obviously aren't  
25 constructed yet. So, when you take your site visit that



1 obviously should be kept in mind. The other thing is, I  
2 would urge you obviously to walk all the way down to the  
3 north on West Lane so that you have appreciation for the  
4 entire property including how it is situated with respect to  
5 the adjacent properties to its north and to its northeast.  
6 So I just don't want you to walk just --

7 MS. ROBESON: I will probably walk Montgomery Lane  
8 to Arlington to whatever the street is above Montgomery  
9 Lane.

10 MS. HARRIS: Edgemoor.

11 MS. ROBESON: Edgemoor to Woodmont, and then West  
12 Lane.

13 MS. HARRIS: Okay.

14 MS. ROBESON: Unless that's five miles. Well even  
15 if it's five miles, I'll walk it.

16 MR. KNOPF: It's two blocks.

17 MS. HARRIS: I want to make one other comment  
18 which you will hear later in testimony, and I don't want to  
19 plant any seeds in the opposition's head but, you know,  
20 there's some contention about traffic congestion. I would  
21 prefer a site visit which is not announced on a specific  
22 date and time because I would hate to see any engineered  
23 issues occurring on the street.

24 MS. ROBESON: Well, I can't do that. I have to  
25 announce it on the record.

1 MS. HARRIS: You can't announce it after you've  
2 taken the site visit?

3 MS. ROBESON: No. No, there's some case law that  
4 just came out, so I have to announce it on the record. And  
5 so I am going to do it in advance out of an abundance of  
6 caution because, as I said, nowadays these site visits are  
7 trickier than one would think. All right. Does Mr. Knopf  
8 need to come back? I'll go off the record in case that's  
9 his wife and then after that we're cutting it off.

10 (Discussion off the record.)

11 MR. KNOPF: Things get very complicated. He  
12 reached his wife who is in a meeting and they are definitely  
13 going to London and he isn't sure whether they're going to  
14 be back the 7th, 8th or 9th. And she has the tickets and  
15 she's coming home tonight and looking. I'm sorry.

16 MS. ROBESON: You want to be hopeful and stick  
17 with the 8th and if I have to convene it and continue it.

18 MS. HARRIS: I mean, I'm a little concerned that  
19 this hearing has been dictated from the very start by  
20 people's vacation schedules. I mean I've totally, myself  
21 and my client have totally worked around everyone's vacation  
22 schedule, and I would hope that others on the other side are  
23 making some accommodations.

24 MR. KNOPF: The only accommodation that I can't  
25 make is my expert. Everybody else I've waived it.

1 MS. ROBESON: But he can listen to the tape and  
2 look at the exhibits. The transcript will be up on the web.

3 MR. KNOPF: Not on the day afterward. I mean, if  
4 we go on the 8th and he starts on the 10th that's the  
5 problem.

6 MS. ROBESON: Deposition Services, can you make  
7 the tape available?

8 MS. HARRIS: Since he's not available anyway, we  
9 go back to the 1st or the 2nd, and then the transcript will  
10 be available and then we pick up the 9th.

11 MR. KNOPF: Well, one way to do that perhaps is  
12 that if we go ahead with the 8th or whatever, and then if he  
13 comes back we just don't go the very next day on the 10th,  
14 if we have another day or two he can listen to the  
15 transcript and then testify.

16 MS. ROBESON: Well you have more than one witness,  
17 right?

18 MR. KNOPF: Yes. They're lay witnesses.

19 MS. ROBESON: So you could put your other  
20 witnesses on.

21 MS. HARRIS: Or can't Mr. Abrams go before Mr.  
22 Knopf?

23 MS. ROBESON: Okay, so it's the 8th at 9:30. All  
24 right, I do appreciate your patience, but yes?

25 MS. HARRIS: I just wanted to register a formal

1 objection about the site visit, just so that it's on the  
2 record. My objection is that given everything that's  
3 occurred in this case thus far, some of which is on this  
4 record and some which isn't, I'm concerned about a pre-  
5 announced visit that could end up with a prefabricated  
6 engineered issue on the street that does not typical  
7 reflection of what occurs on the street.

8 MS. ROBESON: You mean the neighbors are going to  
9 come and park their cars and all that kind of stuff?

10 MS. HARRIS: Potentially. That's my concern.

11 MR. ABRAMS: That's ingenious.

12 MS. HARRIS: I say that because there's  
13 information in the record now of one situation that appeared  
14 to happen at a moment, at one specific time and it certainly  
15 isn't a reflection of what occurs on a daily basis. And so  
16 I would, I think there's the potential of that.

17 MS. ROBESON: Well, your objection is noted.

18 MS. HARRIS: Thank you.

19 MS. ROBESON: And I'm going to go February 6th at  
20 2:00 p.m. If they can manipulate the street to that extent,  
21 well, whatever. I'm going.

22 MR. KNOPF: I'm very flattered that she thinks  
23 that we could so manipulate the traffic.

24 MS. ROBESON: Well, the Planning Board already  
25 found that there's a problem on the street. So I don't

1 think it's news but, I'll be there February 6th at 2:00 p.m.

2 MR. KNOFF: I was just going to ask that, I think  
3 as part of your walking --

4 MS. ROBESON: There's a lack, I'm sorry, I think  
5 the Planning Board indicated that there is a lack of parking  
6 enforcement on the street.

7 MS. HARRIS: Correct.

8 MR. KNOFF: I was just going to suggest that on  
9 the streets that you said you were going to walk, you  
10 mentioned the one north of Montgomery Lane, Edgemoor, and I  
11 was suggesting that you may wish to walk also the one south,  
12 which is Hampden Place of Montgomery Lane.

13 MS. ROBESON: Fronting where the HOC building is  
14 going to be?

15 MR. KNOFF: That's correct.

16 MS. HARRIS: Well the HOC building is there and  
17 then there's another building immediately to the west of  
18 that that was approved but not yet built.

19 MS. ROBESON: Okay. Well, I'll see all that then.  
20 And I don't have a problem with that. All right. So,  
21 that's the story. So this hearing is continued. One more  
22 time, applicants exhibits due to opposition 2/15/13;  
23 opposition exhibits due to applicant 3/8/13; applicants  
24 rebuttal exhibits to opposition 3/22. Applicant to provide  
25 a electronic version to the opposition of the exhibits and a

1 copy to OZAH for the file. And with that I'm going to -- a  
2 site visit is February 6, '13 at 2:00 p.m., and with that  
3 I'm going to continue this case to April 8th at 9:30.

4 MR. ABRAMS: We're supposed to get electronic and  
5 hard copy?

6 MS. ROBESON: Yes. Any other questions? Thank you  
7 for your cooperation. And with that, we're adjourned.

8 (Whereupon, at 11:12 a.m., the hearing was  
9 continued to April 8, 2013.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Office of Zoning and Administrative Hearings for Montgomery County in the matter of:

4831 West Lane, L.L.C.

Local Map Amendment No. G-954

&

4831 West Lane, L.L.C.

Development Plan Amendment No. DPA 13-01

By:

A handwritten signature in dark ink, appearing to read 'KL', with a long horizontal stroke extending to the right.

Keena Lukacinsky  
Transcriber